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Supreme Court of the United States

No. 755.

OCTOBER TERM, 1943.

C. E. MOTTAZ, I. C. SMITH, VIRGINIA BEHNKEN,
WILLIAM H. MORGENS, AND CONTINENTAL
COMPANY, A CORPORATION,
PETITIONERS,

VS.

EDWARD L. SCHEUFLER, SUPERINTENDENT OF THE
INSURANCE DEPARTMENT OF THE STATE OF MIS-
SOURI, GUSTAVE J. CRECELIUS, ANNA M. CRECE-
LIUS AND MYRTLE K. CRECELIUS AND KANSAS CITY
LIFE INSURANCE COMPANY, A CORPORATION,
RESPONDENTS.

PETITIONERS' REPLY BRIEF.

SAM B. SEBREE,
EDGAR SHOOK,

Attorneys for Petitioners.

HARRY H. KAY,
J. H. GREENE, JR.,
SEBREE, SHOOK & GISLER,
Kansas City, Missouri,
Of Counsel.



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PETITIONERS' REPLY BRIEF.

Respondents have misconceived this case.

Petitioners' contentions are:

(1) The Missouri insurance code as interpreted by the Supreme Court of Missouri is an exclusive code under which the rights of all persons interested in an insolvent insurance company must be determined (p. 14, Brief).

(2) The Supreme Court of Missouri did not determine the rights of petitioners under the code but resorted

to equity. The opinion is not based on construction of that code but is in disregard of it (R. 313).

(3) Determination of the rights of petitioners, not based on construction of the exclusive code, is a denial of the equal protection of the laws guaranteed in the Constitution of the United States (p. 14, Brief).

(4) Under the code petitioners are entitled to the fund because it can only be awarded to *interested persons*, and petitioners constitute the only, remaining, eligible, *interested persons* (pp. 17-20, Brief).

(5) The Supreme Court of the United States, under a claim of denial of equal protection of the laws, will receive and determine a case founded on local law when the State court has determined rights in disregard of that existing local law (pp. 20-22, Brief).

(6) Assertion by petitioners, in the Supreme Court of Missouri in the motion for rehearing in Division No. 2 and thereafter preserved, of the denial of the equal protection of the laws guaranteed by the 14th Amendment to the Constitution was timely, and within the scope of the exception recognizing that ground as timely when then raised, because the disregard by the Supreme Court of Missouri of the existing law that the insurance code is exclusive and its decision of the case on equitable principles *could not reasonably have been anticipated* (p. 22, Brief).

Respectfully submitted,

SAM E. SEBREE,
EDGAR SHOOK,

Attorneys for Petitioners.

HARRY H. KAY,
J. H. GREENE, JR.,
SEBREE, SHOOK & GISLER,
Kansas City, Missouri,
Of Counsel.

